

ESTTA Tracking number: **ESTTA957887**

Filing date: **03/04/2019**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91239589
Party	Defendant Bowmaker's Whiskey Company
Correspondence Address	THEODORE A BREINER BREINER & BREINER LLC 115 NORTH HENRY STREET ALEXANDRIA, VA 22314-2903 UNITED STATES Docketclerk@bbpatlaw.com, tbreiner@bbpatlaw.com, Elisedelatorre@bbpatlaw.com 703-684-6885
Submission	Motion to Strike
Filer's Name	THEODORE A. BREINER
Filer's email	tbreiner@bbpatlaw.com, Elisedelatorre@bbpatlaw.com
Signature	/Theodore A. Breiner/
Date	03/04/2019
Attachments	Applicants Objection To Opposers Reply Brief on Rule 56d Motion 3-4-19.pdf(37921 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

MAKER'S MARK DISTILLERY, INC.,	)	
	)	
Opposer,	)	
	)	Opposition No. 91239589
v.	)	
	)	
	)	USSN 87/383,989
	)	Mark: BOWMAKER'S WHISKEY
BOWMAKER'S WHISKEY COMPANY,	)	
	)	
Applicant.	)	

APPLICANT'S OBJECTIONS TO OPPOSER'S  
REPLY BRIEF ON OPPOSER'S RULE 56(d) MOTION

Applicant Bowmaker's Whiskey Company ("Applicant") hereby objects as set forth hereafter to opposer Maker's Mark Distillery, Inc.'s ("Opposer") reply brief on Opposer's Rule 56(d) motion filed on February 28, 2019. 14 TTABVUE.

Specifically, Opposer filed with its reply brief the "Supplemental Declaration of Richard M. Assmus" to support its Rule 56(d) motion. Applicant objects to the supplemental declaration as being improper. Rule 56(d) requires that Opposer file a declaration in support of its motion at the time of filing its motion. There is no legal basis for filing a "supplemental declaration" in a reply brief to support a Rule 56(d) motion. All of this information was previously available to Opposer. Further, Applicant cannot respond to a "supplemental declaration." Accordingly, Applicant respectfully requests that the Board not consider the Supplemental Declaration of Richard M. Assmus.

For the foregoing reasons, Applicant respectfully requests that the Board sustain Applicant's objections as set forth above.

Respectfully submitted,

BOWMAKER'S WHISKEY COMPANY

By /Theodore A. Breiner/  
Theodore A. Breiner  
Registration No. 32,103  
BREINER & BREINER, L.L.C.  
115 North Henry Street  
Alexandria, Virginia 22314-2903  
Telephone (703) 684-6885

Attorneys for Applicant  
Bowmaker's Whiskey Company

March 4, 2019

CERTIFICATE OF SERVICE

It is hereby certified that on this 4th day of March 2019, a true copy of the foregoing paper entitled –

APPLICANT'S OBJECTIONS TO OPPOSER'S  
REPLY BRIEF ON OPPOSER'S RULE 56(d) MOTION

was served by email on -

Michael D. Adams  
MAYER BROWN LLP  
P.O. BOX 2828  
Chicago, Illinois 60690-2828  
michaeladams@mayerbrown.com  
rassmus@mayerbrown.com  
gbarcelona@mayerbrown.com  
xtang@mayerbrown.com

/Theodore A. Breiner/  
THEODORE A. BREINER